

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ALMOS STARKS, :
Petitioner, : NO. 1:01-CV-00835
: 1:95-CR-00004
:
:
v. : **OPINION AND ORDER**
:
:
UNITED STATES OF AMERICA, :
:
Respondent. :
:

This matter is before the Court on Petitioner's Motion for Writ of Error (doc. 81), the Government's Response (doc. 85), and Petitioner's Reply (doc. 88).

On April 24, 1995, a jury found Petitioner Almos L. Starks ("Starks") on numerous charges, including possession of cocaine base with intent to distribute and unlawful possession of a firearm (Case No. CR-1-95-004, doc. 37). As punishment therefor, he was sentenced to two life sentences, a thirty-year sentence, and a ten-year sentence, all to run concurrently (Case No. CR-1-95-004, doc. 53). The United States Court of Appeals for the Sixth Circuit affirmed this decision on May 22, 1997 (Case No. CR-1-95-004, doc. 72), and, on June 2, 2001, Petitioner filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 (Case No. CR-1-95-004, doc. 74). The Court denied this

motion on September 26, 2001 (Case No. CR-1-95-004, doc. 79).

Proceeding pro se, Starks then filed with the Court the present motion, styled as a motion for writ of error coram nobis under the All Writs Act on December 3, 2001 (Case No. CR-1-95-004, doc. 81). The Court construed this filing as a second motion filed pursuant to 28 U.S.C. § 2255 (Case No. CR-1-95-004, doc. 85), a characterization to which Starks objected (Case No. CR-1-95-004, doc. 88). The Government responded that Starks' filing was out of time and that his assertions are factually inaccurate (doc. 85).

On October 18, 2002, Petitioner filed a Notice of Appeal with the Sixth Circuit, appealing the Court's judgment denying his motion and seeking an application for a certificate of appealability (Case No. CR-1-95-004, doc. 90). On September 2, 2003, the Sixth Circuit concluded that Starks failed to make a substantial showing that he was denied any federal constitutional right and, therefore, denied him a certificate of appealability (Case No. CR-1-95-004, doc. 94). In light of this decision, Stark's pending motion is moot.

Accordingly, the Court DENIES Petitioner's Motion for Writ of Error (doc. 81).

SO ORDERED.

Date: September 29, 2005

s/S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge